

Defendant's Exhibit 0

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ROBERT NOVAK d/b/a Pets Warehouse, com.,

CV 01 3566

Plaintiff,

-against-

INTERROGATORIES

ACTIVE WINDOW PRODUCTIONS, INC.,
MARK ROSENSTEIN, CYNTHIA S. POWERS,
DAN RESLER, JARED WEINBERGER,
THOMAS BARR, "JOHN DOE" and "MARY DOE",

Defendants.
-----X

Mark Rosenstein and Active Window Productions, Inc., by their attorneys, Robert L. Folks & Associates, LLP, request pursuant to Rule 33 of the Federal Rules of Civil Procedure and the Local Civil Rules of the United States District Court for the Eastern District of New York (hereinafter "Local Rules"), that Plaintiff Robert Novak answer the following interrogatories within thirty (30) days of service thereof.

DEFINITIONS & INSTRUCTIONS

1. For purposes of this request, the definitions and rules of construction set forth in Local Rule 26.3 shall apply.
2. The "Complaint" shall mean the Complaint filed by Plaintiff in this action.

INTERROGATORIES

As To Mark Rosenstein, Individually

- 1) What acts of libel is Mark Rosenstein, as an individual, alleged to have committed? Provide a sample of each and every alleged libelous statement.
- 2) To whom were these alleged libelous statements described in Paragraph 1 above published and when? Where?

3) What actions are Mark Rosenstein alleged to have taken, as an individual, that would render him an "information content provider" under 47 USC §230.

4) What acts is Mark Rosenstein, as an individual, alleged to have taken to modify content on the Aquatic Plant's Digest? Give specific acts, dates, witnesses to this alleged modification and all supporting documentation including printouts of screen shots.

5) What acts is Mark Rosenstein, as an individual, alleged to have performed which constituted editorial control over any statements alleged in the Complaint to have been libelous. State specifically with respect to each allegedly libelous statement given: date of alleged act of editorial control and witnesses to said acts and supporting documentation such as printouts of screen shots.

As to Active Window Productions, Inc.

6) What acts of libel is Active Window Productions, Inc. alleged to have committed? Provide a sample of each and every alleged libelous statement.

7) To whom were these alleged libelous statements described in Paragraph 6 above published and when? Where?


8) What actions is Active Window Productions, Inc. alleged to have taken that would render them an "information content provider" under 47 USC §230.

9. What acts is Active Window Productions, Inc. alleged to have taken to modify content on the Aquatic Plant's Digest? Give specific acts, dates, witness to this alleged modification and all supporting documentation including printouts of screen shots.

10) What acts is Active Window Productions, Inc. alleged to have performed which constituted editorial control over any statements alleged in the Complaint to have been libelous. State specifically with respect to each allegedly libelous statement given: date of alleged act of editorial control and witnesses to said acts and supporting documentation such as printouts of screen shots.

Dated: Melville, New York
April 21, 2009

Yours, etc.


CYNTHIA A. KOURIL (4899)
ROBERT L. FOLKS & ASSOCIATES, LLP
Attorneys for Defendants Mark Rosenstein and
Active Windows Productions, Inc.
510 Broad Hollow Road, Suite 304A
Melville, New York 11747
(631) 845-1900

TO: Robert Novak
c/o Pets Warehouse
1550 Sunrise Highway
Copiague, New York 11726

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ROBERT NOVAK d/b/a Pets Warehouse, com.

CV 01 3566

Plaintiff,

-against-

ACTIVE WINDOW PRODUCTIONS, INC.,
MARK ROSENSTEIN, CYNTHIA POWERS,
DAN RESLER, JARED WEINBERGER,
THOMAS BARR, "JOHN DOE" and "MARY DOE",

Defendants.
-----X

=====

INTERROGATORIES

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CYNTHIA A. KOURIL (4899)
ROBERT L. FOLKS & ASSOCIATES, LLP
Attorneys for Defendants Mark Rosenstein and
Active Windows Productions, Inc.
510 Broad Hollow Road, Suite 304A
Melville, New York 11747
(631) 845-1900

TO: Robert Novak
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1550 Sunrise Highway
Copiague, New York 11726

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ROBERT NOVAK d/b/a Pets Warehouse, com.

CV 01 3566

Plaintiff,

-against-

**REQUEST FOR
ADMISSIONS**

ACTIVE WINDOW PRODUCTIONS, INC.,
MARK ROSENSTEIN, CYNTHIA POWERS,
DAN RESLER, JARED WEINBERGER,
THOMAS BARR, "JOHN DOE" and "MARY DOE",

Defendants.
-----X

Mark Rosenstein, individually, and Active Window Productions, Inc. hereby request of the Plaintiff admissions pursuant to FRCP Rule 36 of the following facts and applications of law:

INSTRUCTIONS

For every matter not admitted the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it. A denial must fairly respond to the substance of the matter and when good faith requires that the Plaintiff qualify an answer or deny only part of a matter, that answer must specify the part admitted and qualify or deny the rest. The ground for objecting to a specific request to admit must be individually stated. A party may not object solely on the ground that the request presents a genuine issue for trial. A matter is admitted unless, within thirty (30) days after being served, the party to whom the request is directed served upon the requesting party a written answer or objection as described above, signed by the party or the party's attorneys.

REQUESTS FOR ADMISSIONS

1) Mark Rosenstein, as an individual, has made no libelous statements concerning Plaintiff or Plaintiff's business.

2) No libelous statements about Plaintiff or Plaintiff's business were "published" by Mark Rosenstein.

3) Mark Rosenstein, as an individual, is not an "information content provider" under 47 USC §230, with respect to the acts complained of by Plaintiff in this action..

4) Mark Rosenstein, as an individual, took no actions to modify content on the Aquatic Plant's Digest?

5) Mark Rosenstein, as an individual, exercises no editorial control over any statements alleged in the Complaint to have been libelous or any other statements on the Aquatic Plants Digest.

As to Active Window Productions, Inc.

6) Active Window Productions, Inc. mad no libelous statements about Plaintiff or Plaintiff's business.

7) No libelous statements about Plaintiff or Plaintiff's business were "published" by Active Windows Productions, Inc.

8) Active Window Productions, Inc. is not an "information content provider" under 47 USC §230.

9. Active Window Productions, Inc. took no actions to modify content on the Aquatic Plant's Digest.

10) Active Window Productions, Inc. exercises no editorial control over any statements alleged in the Complaint to have been libelous or any other statements on the Aquatic Plants Digest.

11. Robert Novak's medical condition pre-dated the events described in the Complaint.

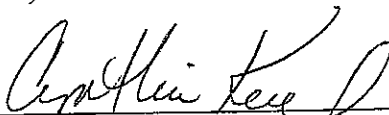
12. The illnesses, including mental illnesses, described in the Complaint were in existence prior to the events described in the Complaint.

13. No diagnoses has been made linking illness in Robert Novak to the events described in the Complaint.

14. Plaintiff possesses no financial documents which would be admissible to prove that Plaintiff suffered any financial harm relating to the events described in the Complaint.

Dated: Melville, New York
April 21, 2009

Yours, etc.



CYNTHIA A. KOURIL (4899)
ROBERT L. FOLKS & ASSOCIATES, LLP
Attorneys for Defendants Mark Rosenstein and
Active Windows Productions, Inc.
510 Broad Hollow Road, Suite 304A
Melville, New York 11747
(631) 845-1900

TO: Robert Novak
c/o Pets Warehouse
1550 Sunrise Highway
Copiague, New York 11726

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ROBERT NOVAK d/b/a PetsWarehouse, com.,

CV 01 3566

Plaintiff,

-against-

INTERROGATORIES

ACTIVE WINDOW PRODUCTIONS, INC.,
MARK ROSENSTEIN, CYNTHIA S. POWERS,
DAN RESLER, JARED WEINBERGER,
THOMAS BARR, "JOHN DOE" and "MARY DOE",

Defendants.
-----X

Mark Rosenstein and Active Window Productions, Inc., by their attorneys, Robert L. Folks & Associates, LLP, request pursuant to Rule 33 of the Federal Rules of Civil Procedure and the Local Civil Rules of the United States District Court for the Eastern District of New York (hereinafter "Local Rules"), that Plaintiff Robert Novak answer the following interrogatories within thirty (30) days of service thereof.

DEFINITIONS & INSTRUCTIONS

1. For purposes of this request, the definitions and rules of construction set forth in Local Rule 26.3 shall apply.
2. The "Complaint" shall mean the Complaint filed by Plaintiff in this action.

INTERROGATORIES

As To Mark Rosenstein, Individually

- 1) What acts of libel is Mark Rosenstein, as an individual, alleged to have committed? Provide a sample of each and every alleged libelous statement.
- 2) To whom were these alleged libelous statements described in Paragraph 1 above published and when? Where?

3) What actions are Mark Rosenstein alleged to have taken, as an individual, that would render him an "information content provider" under 47 USC §230.

4) What acts is Mark Rosenstein, as an individual, alleged to have taken to modify content on the Aquatic Plant's Digest? Give specific acts, dates, witnesses to this alleged modification and all supporting documentation including printouts of screen shots.

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As to Active Window Productions, Inc.

6) What acts of libel is Active Window Productions, Inc. alleged to have committed? Provide a sample of each and every alleged libelous statement.

7) To whom were these alleged libelous statements described in Paragraph 6 above published and when? Where?

8) What actions is Active Window Productions, Inc. alleged to have taken that would render them an "information content provider" under 47 USC §230.

9. What acts is Active Window Productions, Inc. alleged to have taken to modify content on the Aquatic Plant's Digest? Give specific acts, dates, witness to this alleged modification and all supporting documentation including printouts of screen shots.

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Dated: Melville, New York
April 21, 2009

Yours, etc.



CYNTHIA A. KOURIL (4899)
ROBERT L. FOLKS & ASSOCIATES, LLP
Attorneys for Defendants Mark Rosenstein and
Active Windows Productions, Inc.
510 Broad Hollow Road, Suite 304A
Melville, New York 11747
(631) 845-1900

TO: Robert Novak
c/o Pets Warehouse
1550 Sunrise Highway
Copiague, New York 11726

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ROBERT NOVAK d/b/a Pets Warehouse, com.

CV 01 3566

Plaintiff,

-against-

ACTIVE WINDOW PRODUCTIONS, INC.,
MARK ROSENSTEIN, CYNTHIA POWERS,
DAN RESLER, JARED WEINBERGER,
THOMAS BARR, "JOHN DOE" and "MARY DOE",

Defendants.
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INTERROGATORIES

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CYNTHIA A. KOURIL (4899)
ROBERT L. FOLKS & ASSOCIATES, LLP
Attorneys for Defendants Mark Rosenstein and
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TO: Robert Novak
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1550 Sunrise Highway
Copiague, New York 11726

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ROBERT NOVAK d/b/a Pets Warehouse, com.

CV 01 3566

Plaintiff,

-against-

**REQUEST FOR
ADMISSIONS**

ACTIVE WINDOW PRODUCTIONS, INC.,
MARK ROSENSTEIN, CYNTHIA POWERS,
DAN RESLER, JARED WEINBERGER,
THOMAS BARR, "JOHN DOE" and "MARY DOE",

Defendants.
-----X

Mark Rosenstein, individually, and Active Window Productions, Inc. hereby request of the Plaintiff admissions pursuant to FRCP Rule 36 of the following facts and applications of law:

INSTRUCTIONS

For every matter not admitted the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it. A denial must fairly respond to the substance of the matter and when good faith requires that the Plaintiff qualify an answer or deny only part of a matter, that answer must specify the part admitted and qualify or deny the rest. The ground for objecting to a specific request to admit must be individually stated. A party may not object solely on the ground that the request presents a genuine issue for trial. A matter is admitted unless, within thirty (30) days after being served, the party to whom the request is directed served upon the requesting party a written answer or objection as described above, signed by the party or the party's attorneys.

REQUESTS FOR ADMISSIONS

1) Mark Rosenstein, as an individual, has made no libelous statements concerning Plaintiff or Plaintiff's business.

2) No libelous statements about Plaintiff or Plaintiff's business were "published" by Mark Rosenstein.

3) Mark Rosenstein, as an individual, is not an "information content provider" under 47 USC §230, with respect to the acts complained of by Plaintiff in this action..

4) Mark Rosenstein, as an individual, took no actions to modify content on the Aquatic Plant's Digest?

5) Mark Rosenstein, as an individual, exercises no editorial control over any statements alleged in the Complaint to have been libelous or any other statements on the Aquatic Plants Digest.

As to Active Window Productions, Inc.

6) Active Window Productions, Inc. mad no libelous statements about Plaintiff or Plaintiff's business.

7) No libelous statements about Plaintiff or Plaintiff's business were "published" by Active Windows Productions, Inc.

8) Active Window Productions, Inc. is not an "information content provider" under 47 USC §230.

9. Active Window Productions, Inc. took no actions to modify content on the Aquatic Plant's Digest.

10) Active Window Productions, Inc. exercises no editorial control over any statements alleged in the Complaint to have been libelous or any other statements on the Aquatic Plants Digest.

11. Robert Novak's medical condition pre-dated the events described in the Complaint.

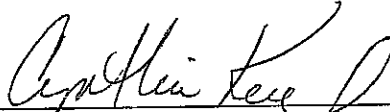
12. The illnesses, including mental illnesses, described in the Complaint were in existence prior to the events described in the Complaint.

13. No diagnoses has been made linking illness in Robert Novak to the events described in the Complaint.

14. Plaintiff possesses no financial documents which would be admissible to prove that Plaintiff suffered any financial harm relating to the events described in the Complaint.

Dated: Melville, New York
April 21, 2009

Yours, etc.



CYNTHIA A. KOURIL (4899)
ROBERT L. FOLKS & ASSOCIATES, LLP
Attorneys for Defendants Mark Rosenstein and
Active Windows Productions, Inc.
510 Broad Hollow Road, Suite 304A
Melville, New York 11747
(631) 845-1900

TO: Robert Novak
c/o Pets Warehouse
1550 Sunrise Highway
Copiague, New York 11726

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ROBERT NOVAK d/b/a Pets Warehouse, com.

CV 01 3566

Plaintiff,

-against-

ACTIVE WINDOW PRODUCTIONS, INC.,
MARK ROSENSTEIN, CYNTHIA POWERS,
DAN RESLER, JARED WEINBERGER,
THOMAS BARR, "JOHN DOE" and "MARY DOE",

Defendants.
-----X

=====

REQUEST FOR ADMISSIONS

=====

CYNTHIA A. KOURIL (4899)
ROBERT L. FOLKS & ASSOCIATES, LLP
Attorneys for Defendants Mark Rosenstein and
Active Windows Productions, Inc.
510 Broad Hollow Road, Suite 304A
Melville, New York 11747
(631) 845-1900

TO: Robert Novak
c/o Pets Warehouse
1550 Sunrise Highway
Copiague, New York 11726

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ROBERT NOVAK d/b/a Pets Warehouse, com.

CV 01 3566

Plaintiff,

-against-

ACTIVE WINDOW PRODUCTIONS, INC.,
MARK ROSENSTEIN, CYNTHIA POWERS,
DAN RESLER, JARED WEINBERGER,
THOMAS BARR, "JOHN DOE" and "MARY DOE",

**DEFENDANTS'
REQUEST FOR
PRODUCTION OF
DOCUMENTS AND
THINGS RELATING TO
MEDICAL RECORDS**

Defendants.
-----X

PLEASE TAKE NOTICE, that Defendants, ACTIVE WINDOW PRODUCTIONS, INC., and MARK ROSENSTEIN, by their attorneys Robert L. Folks & Associates, LLP, hereby request pursuant to §§ 26 and 34(a) the Federal Rules of Civil Procedure, that plaintiffs produce the following documents and things, and make them available for inspection and copying by defendants no later than fourteen (14) days after being served, at the offices of Robert L. Folks & Associates, LLP, 510 Broad Hollow Road, Suite 304A, Melville, New York 11747.

DEFINITIONS AND INSTRUCTIONS

Unless specifically indicated or otherwise required by the context in which the terms, name and instructions are used the following definitions and instructions shall be applicable to this Notice for Discovery and Inspection.

1. The term "document" means all writings of any kind including without limitation change orders; studies; messages; correspondence; memoranda; notes; diaries; logs; statistics; letters; telegrams; minutes; contracts; reports; studies; checks; statements; receipts; returns; summaries; pamphlets; books; news articles; prospectuses; inter-office and intra-office communications; offers; notations of any sort of conversations, telephone calls, meetings or other communications; bulletins; printed matter; computer records printouts; teletypes; telefax; mailgrams; invoices; worksheets; and all drafts, alterations, modifications, changes and amendments of any kind; and electronic, mechanical or electrical records or representations of any kind including without limitation tapes; cassettes; discs; hard drives and recordings; proposals; solicitation sheets; applications and/or certifications for payment.

2. The term "possession, custody or control" includes without limitation possession, custody or control of plaintiffs or any persons or entities acting or purporting to act on behalf of plaintiffs whether as agent, accountant, employee, attorney, sponsor, spokesman or otherwise.

3. The term "and" and "or" shall be construed disjunctively or conjunctively as necessary to make the request inclusive rather than exclusive.

4. The use of the singular shall include the plural and vice versa, and the use of the masculine shall include the feminine and vice versa as the context requires.

5. In the event that any document called for by this Notice for Discovery and Inspection is not produced:

(a) Identify each such document;

(b) Set forth the reason why the document has not been produced (e.g., not in your custody, possession or control; destruction; claim of privilege);

(i) If the document is not produced on the basis of a claim of privilege, set forth the nature of the privilege asserted and the relationship to plaintiffs of each person or entity to whom each such document was transmitted or shown or to whom the information therein was disclosed; and

(ii) If the document is in the possession of a person or business entity other than plaintiffs over which plaintiffs have no control:

- (A) Set forth whether and when the document was in your possession;
- (B) Set forth what disposition was made of the document; and
- (C) Identify the person or entity which is presently in possession of the document;

(iii) If the document was destroyed:

- (A) Set forth the date of destruction;
- (B) Set forth the manner of destruction;
- (C) Set forth the reason for destruction;
- (D) Set forth the name and address of the person authorizing the destruction; and
- (E) Set forth the name and address of the person destroying the document.

6. For documents produced:

- (A) Set forth the text of the numbered request.
- (B) Set forth a description of the documents being produced in

response to the individual numbered requests.

DOCUMENTS AND THINGS DEMANDED

1) Records relating to any and every psychiatric or psychological diagnoses or treatment rendered to Mr. Novak for the mental distress and related afflictions described in Paragraph 46 of the Complaint.

Attached hereto is a blank form of medical authorization. Plaintiff can reproduce this form as many times as necessary to provide individual authorization for each health case provider.

2) Records relating to any and every diagnoses or treatment for the physical ailments described in Paragraph 46 of the Complaint.

Attached hereto is a blank form of medical authorization. Plaintiff can reproduce this form as many times as necessary to provide individual authorization for each health case provider.

3. Records relating to each and every prescription drug or treatment provided to Plaintiff to alleviate any of the conditions or maladies described in Paragraph 46 of the Complaint.

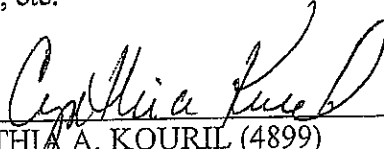
Attached hereto is a blank form of medical authorization. Plaintiff can reproduce this form as many times as necessary to provide individual authorization for each health case provider.

4. Medical records of any kind relating to any and all pre-existing condition which Plaintiff suffered from at the time of the events described in the Complaint.

Attached hereto is a blank form of medical authorization. Plaintiff can reproduce this form as many times as necessary to provide individual authorization for each health case provider.

Dated: Melville, New York
April 21, 2009

Yours, etc.



CYNTHIA A. KOURIL (4899)
ROBERT L. FOLKS & ASSOCIATES, LLP
Attorneys for Defendants Mark Rosenstein and
Active Windows Productions, Inc.
510 Broad Hollow Road, Suite 304A
Melville, New York 11747
(631) 845-1900

TO: Robert Novak
c/o Pets Warehouse
1550 Sunrise Highway
Copiague, New York 11726

Robert L. Folks & Associates, LLP

[Doctor Name]

510 Broad Hollow Road, Suite 304A
Melville, NY 11747
Phone: 631-845-1900
Fax: 631-845-8779

AUTHORIZATION TO RELEASE HEALTHCARE INFORMATION

Patient's Name: Robert Novak Date of Birth: _____

Previous Name: _____ Social Security #: _____

I request and authorize _____ to
release healthcare information of the patient named above to:

Name: Robert L. Folks & Associates, LLP

Address: 510 Broad Hollow road, Suite 304 A

City: Melville State: N.Y. Zip Code: 11747

This request and authorization applies to:

☐ Healthcare information relating to the following treatment, condition, or dates: _____

☐ All healthcare information

☐ Other: _____

Definition: Sexually Transmitted Disease (STD) as defined by law, RCW 70.24 et seq., includes herpes, herpes simplex, human papilloma virus, wart, genital wart, condyloma, Chlamydia, non-specific urethritis, syphilis, VDRL, chancroid, lymphogranuloma venereum, HIV (Human Immunodeficiency Virus), AIDS (Acquired Immunodeficiency Syndrome), and gonorrhea.

☐ Yes ☐ No I authorize the release of my STD results, HIV/AIDS testing, whether negative or positive, to the person(s) listed above. I understand that the person(s) listed above will be notified that I must give specific written permission before disclosure of these test results to anyone.

☐ Yes ☐ No I authorize the release of any records regarding drug, alcohol, or mental health treatment to the person(s) listed above.

Patient Signature: _____ Date Signed: _____

THIS AUTHORIZATION EXPIRES NINETY DAYS AFTER IT IS SIGNED.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ROBERT NOVAK d/b/a Pets Warehouse, com.

CV 01 3566

Plaintiff,

-against-

ACTIVE WINDOW PRODUCTIONS, INC.,
MARK ROSENSTEIN, CYNTHIA POWERS,
DAN RESLER, JARED WEINBERGER,
THOMAS BARR, "JOHN DOE" and "MARY DOE",

Defendants.
-----X

=====

**DEFENDANTS' REQUEST FOR PRODUCTION
OF DOCUMENTS AND
THINGS RELATING TO MEDICAL RECORDS**

=====

CYNTHIA A. KOURIL (4899)
ROBERT L. FOLKS & ASSOCIATES, LLP
Attorneys for Defendants Mark Rosenstein and
Active Windows Productions, Inc.
510 Broad Hollow Road, Suite 304A
Melville, New York 11747
(631) 845-1900

TO: Robert Novak
c/o Pets Warehouse
1550 Sunrise Highway

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ROBERT NOVAK d/b/a PetsWarehouse.com,

Plaintiff,

-against-

Affidavit of
Service

CV 01 3566

ACTIVE WINDOW PRODUCTIONS, INC.,
MARK ROSENSTEIN, CYNTHIA POWERS,
DAN RESLER, JARED WEINBERGER,
THOMAS BARR, "JOHN DOE" and "MARY DOE",

Defendants.
-----X

STATE OF NEW YORK)

: ss :

COUNTY OF SUFFOLK)

TERESA M. QUAIES, being duly sworn, deposes and says:

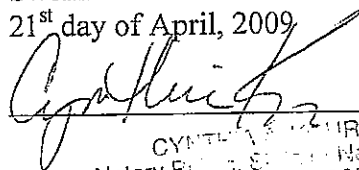
I am not a party to the action, am over eighteen years of age, and reside at
Oakdale, New York

On April 21 2009, I served the within **INTERROGATORIES, REQUEST FOR
ADMISSIONS and DEFENDANTS' REQUEST FOR PRODUCTION OF
DOCUMENTS AND THINGS RELATING TO MEDICAL RECORDS** by
depositing a true copy thereof in an official depository under the exclusive care and
custody of the United Parcel Service, Tracking No. 1Z F08 A49 22 1002 3354, addressed
to each of the following persons at the last known address set forth after each name:

Robert Novak
c/o Pets Warehouse
1550 Sunrise Highway
Copiague, New York 11726


Teresa M. Quaies

Sworn to before me this
21st day of April, 2009



CYNTHIA S. CURTIL
Notary Public, State of New York
No. 02K0004802
Qualified in Nassau County
Commission Expires May 17, 2015

Defendant's Exhibit P

ROBERT L FOLKS & ASSOCIATES, LLP
ATTORNEY AT LAW

510 Broad Hollow Road, Suite 304A
Melville, New York 11747

ROBERT L. FOLKS
CYNTHIA A. KOURIL

(631) 845-1900
Telecopier: (631) 845-8779

THOMAS L. COSTA
Of Counsel

May 7, 2009

Robert Novak
c/o Pets Warehouse
1550 Sunrise Highway
Copiague, New York 11726

Re: Novak v. Active Window Productions, Inc. & Mark Rosenstein

Mr. Novak:

Please be advised that your backdated "Initial Disclosures" transmitted to this firm via facsimile on April 30, 2009, is defective in several regards:

1) This firm has notified you in writing on more than one occasion that we do not accept service via facsimile. Under Rule 5(b)(2)(E) written permission of the recipient is required for valid service by electronic means. We have repeatedly informed you that we DO NOT consent to service in this manner. Please consult Rule 5 for valid means of service.

2) The document is not signed. As we have previously informed you, Rule 26(g) requires every discovery request, response or objection to be signed either by the attorney of record or by the party promulgated such device. Pursuant to Rule 26(g)(2) "other parties have no duty to act on an unsigned disclosure request, response or objection until it is signed and the court must strike it unless a signature is promptly supplied after the omission is called to the attorney's or party's attention".

Mr. Novak, I notified you of this requirement when you promulgated your unsigned discovery demands. In view of such prior admonition, it is fair to infer that your failure to sign, like your failure to honor our refusal to consent to facsimile, is willful, harassing and contumacious.

3) Your automatic disclosures are a non-sequitur.

a) Rule 26(a) requires you to list all persons who have discoverable information, a larger group than your witness list for trial. Failure to provide those names now, unless they were unknown and unknowable to you, preclude you from "reserving the right to call at trial any or different witnesses, etc."

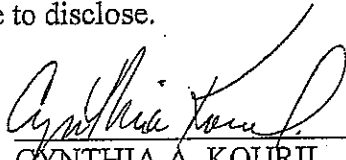
b) There is no description of the documents "kept during the normal course of business". Defendants and the court are not supposed to "guess" about what documents you keep, you are supposed to tell us what they are, either by providing copies or describing by category what documents are available.

Also, you reserve the right to provide copies at a "later time in response to specific requests"? You have all the specific requests, and responses to them are past due. They were in your hands before you faxed this document.

c) Computation of Damages:

Defendant's accounting information was served upon you prior to the faxing of this document. You have already received the very documentation you claim to need to do this computation.

PLEASE TAKE NOTICE, that unless all of these defects are promptly remedied defendant will move for an order precluding the use of any information which you have failed to provide in your flagrantly abusive "automatic disclosure and to preclude any use of proof reasonably flowing from the willful failure to disclose.


CYNTHIA A. KOURIL

CAK:rq

**UNITED STATES DISTRICT COURT
Eastern District of New York**

Robert Novak

Plaintiff,

CV01 3566
Plaintiff's Initial
Disclosures Pursuant to
Fed. R. CIV. P. 26(a)(1)

v

Active Window Productions, Inc.,
Mark Rosenstein

Defendants

Pursuant to Fed. R. IV. P. 26(a), and based on information reasonably available to him, Plaintiff Robert Novak, makes the following initial disclosures:

- (a) The individual to have discoverable information to support its claims, defenses and damages.

Robert Novak
1550 Sunrise Hwy
Copague NY 11726

Accordingly, Robert Novak hereby reserves its right to supplement this list of witnesses, to call at trial or for deposition any or different witness, including rebuttal and impeachment witnesses, or to present additional or different witnesses or testimony arises, Plaintiff also reserves the right to supplement this list and to call at trial any witness designated by Defendant. Moreover, to the extent Defendant does not call at trial any or all of its disclosed witnesses, R. Novak reserves the right to introduce portions of those witnesses' depositions at trial.

- (b) Description of documents.

Documents that are kept during the normal course of business. They are in hard copy and EDI format.
Documents regarding the Trademark Pets Warehouse®.

They are located at:

Pets Warehouse
1550 Sunrise Hwy
Copiague NY 11726

Plaintiff hereby reserves its right to provide copies of such documents at a later time, in response to specific Requests for Documents, as promulgated by the defendant in this matter.

[c] Computation of damages

Until such time that defendant provides information during discovery Plaintiff cannot compute accurate damages.

(d) Insurance

Plaintiff has no insurance related to coverage in this matter.

October 30, 2008
Respectfully submitted,

Robert Novak